

CARDINAL HEALTH
INCENTIVE AGREEMENT

THIS AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2010, between the Redevelopment Agency of West Valley City, a governmental entity organized under the laws of the State of Utah (the "Agency") and Cardinal Health, a Utah corporation, ("Cardinal") (collectively the Agency and Cardinal are referred to as the "Parties").

W I T N E S S E T H:

WHEREAS, the Agency has determined that it is in the best interest of West Valley City to provide an incentive to Cardinal in order to ensure the location of their business and related investments in West Valley City; and

WHEREAS, to enable the Agency to achieve the objective of Cardinal maintaining their business and related investments in West Valley City, the Agency held a public hearing regarding the incentive payment to Cardinal; and

WHEREAS, Cardinal desires to remain on the Property located in West Valley City more specifically defined herein as the "Site" for and in accordance with the uses specified in this Agreement; and

WHEREAS, the Agency believes that retaining the business of Cardinal and their continued occupancy of the Property, pursuant to this Agreement, is in the vital and best interest of the Agency and in the vital and best interest of the health, safety and welfare of West Valley City and its residents, and in accord with the public purposes and provisions of the applicable State laws; and

WHEREAS, the Agency, on the basis of the foregoing, is willing to assist Cardinal in accordance with the provisions of this Agreement;

NOW, THEREFORE, each of the Parties hereto, for and in consideration of the mutual promises and performances set forth herein, does covenant and agree as follows:

1. Purpose. This Agreement is intended to set forth the rights and obligations of Cardinal and the Agency with respect to the location and operation of a Cardinal facility in West Valley City and certain incentive payments from the Agency to facilitate Cardinal investment and operations on the Site. The Agency expects that Cardinal will remain at the existing Site for at least a period of 6 years and 8 months and continue the operation of Cardinal business on the Site. Upon compliance with the terms of this Agreement, the Agency will assist Cardinal by paying to Cardinal certain funds as described in this Agreement. The Agency expects to recoup those funds through the increased taxes generated by Cardinal operations.

2. Definitions.

The capitalized terms used in this Agreement have the following meanings:

- A. Agency. The term “Agency” means the Redevelopment Agency of West Valley City, a public body, exercising its functions and powers and organized and existing under the former Utah Neighborhood Development Act and existing Utah Redevelopment Agencies Act or any replacement act (the “Act”), including any successor public agency designated by or pursuant to Law.
- B. Improvements. The term “Improvements” means all of the physical construction, remodeling, renovations, and installations existing and/or to be made by Cardinal on the Site, including, without limitation, all improvements, fixtures, other real property, equipment, furniture, furnishings and other personal property subject to ad valorem taxes to be constructed and/or installed on the Site by Cardinal in order to establish and operate their business on the Site, together with all existing improvements. All Improvements on the Site shall comply with the City’s zoning, building, parking, sign and other ordinances and regulations.
- C. Incentive Payment(s). Shall mean the two annual payments of \$50,000 from the Agency to Cardinal in accordance with the terms of this Agreement. The total of all Tax Incentive Payments shall not exceed \$100,000.
- D. Site. The term “Site” means all of the property and structures located at 3684 West 2340 South in West Valley City and depicted in the Site Aerial Photograph which is attached to this Agreement as Exhibit No. 1.

3. Conditions Precedent. As conditions precedent to the Agency’s obligation to pay any yearly Incentive Payment to Cardinal, Cardinal shall perform or satisfy the following conditions precedent:

- A. Site Improvements. On or before the date of the second annual payment of \$50,000, Cardinal must have invested the first \$50,000 payment in Improvements to the Site.
- B. Building Permits. Prior to the commencement of any Improvements made to the Site, Cardinal shall obtain all of the applicable Building Permits from West Valley City as well as any other applicable approvals, state, local or otherwise, necessary for the improvements.
- C. Payment of Taxes. Subject to the provisions of Section 6 of this Agreement, Cardinal agrees that it shall pay all ad valorem taxes and sales taxes, and, if applicable, interest and penalties, relating to the Site for each year of this Agreement.

- D. Conditional Use Permit. Cardinal shall be in compliance with the terms of any conditional use permit for the Site and the conditional use permit shall be in good standing and shall not have been revoked.
- E. Business License. Cardinal is in compliance with the business licensing ordinances of West Valley City and has a valid West Valley City Business License.
- F. Equipment and Operations. During the year of the Incentive Payment, Cardinal shall have not removed or substantially reduced the value of the Improvements on the Site or discontinued a substantial portion of its operations on the Site.
- G. Occupancy. Cardinal hereby commits to conduct operations at the Site during another 6 years and 8 months, the term of this Agreement.

4. Obligations of the Agency.

- A. Payment of Incentive Payments to Cardinal. Subject to the satisfaction of the conditions precedent set forth in Section 3 above, the Agency agrees to pay to Cardinal an Incentive Payment of \$50,000 per year for two years. Subject to the Conditions Precedent, the first Incentive Payment shall be made on or before June 1st, of each year of this Agreement. The first Incentive Payment shall be made in 2010 and the final Incentive Payment shall be made in 2011. The total of all Incentive Payments shall not exceed \$100,000.
- B. 2010 Incentive Payment. The Agency shall make the 2010 Incentive Payment if Cardinal is in compliance with all Conditions Precedent set forth above, except for the requirement set forth in Paragraph 3(A) above.
- C. Failure of Conditions Precedent. If during any year of this Agreement Cardinal is not in compliance with the Conditions Precedent set forth in Paragraph 3 above, then the Incentive Payment for that year shall be forfeited and the total of all Incentive Payments shall be reduced by that amount.
- D. Failure to Occupy the Site. If Cardinal fails to conduct operations at the Site after the last payment of \$50,000 is made in 2011, Cardinal shall pay the RDA back a prorated amount of the total incentive payment. The proration shall be calculated in fourths and Cardinal shall be obligated to repay the RDA as follows:
 - (a) Total term is 80 months, which constitutes 20 months by dividing it in fourths. Therefore, each 20 month block is equal to \$25,000. The total incentive payment of \$100,000 shall be paid within the first 20 month block. Accordingly, if Cardinal ceases operations at the Site within the second 20 month block, Cardinal shall

reimburse the RDA \$75,000. If Cardinal ceases operations at the Site within the third 20 month block, Cardinal shall reimburse the RDA \$50,000. If Cardinal ceases operations at the Site within the fourth 20 month block, Cardinal shall reimburse the City \$25,000.

- E. Terms and Conditions of Payment. The Agency's payment of the Incentive Payment shall be made subject to the following terms and conditions.
- (a) Unless otherwise specifically set forth in this Agreement, no interest shall be paid by the Agency on any Annual Available Tax Increment Payment.
 - (b) Cardinal understands and agrees that:
 - (i) Incentive Payment funds will be included in the annual Agency budget during the term of this Agreement and are subject to annual appropriation of the Agency Board.
 - (ii) The Agency is not a taxing entity under Utah law;
 - (iii) The Agency has no power to levy a property tax on real or personal property located within the Site;
 - (iv) The Agency has no power to set a mill levy or rate of tax levy on real or personal property;
- F. Any Incentive Payments made by the Agency under the terms of this Agreement shall cease upon the expiration or termination of this Agreement or the Agency's payment of a total of \$100,000 to Cardinal and the Agency shall not be obligated to pay any additional funds to Cardinal.

5. Payment of Taxes.

- A. Subject to Cardinal's right to protest or appeal as provided below, during the Term of this Agreement, all ad valorem taxes and assessments levied or imposed on the Site, any of the Improvements, and any personal property on the Site for any period commencing after the Improvements are completed on the Site by Cardinal shall be paid annually by Cardinal on or before the due date which is currently set by law as November 30.
- B. Cardinal shall have the right to protest or appeal the amount of Assessed Taxable Value levied against the Site by the County Assessor, State Tax Commission or any lawful entity authorized by law to determine the ad valorem assessment against the Site, the Improvements or any portion of the Site or Improvements in the same manner as any other taxpayer as provided by law. Cardinal shall, however, notify the Agency in writing

within ten (10) calendar days of Cardinal's filing of any protest or appeal to such assessment determination and provide a copy to the Agency of any protest or appeal of such assessment and information submitted as part of the protest or appeal. In addition, Cardinal shall give to the Agency written notice at least fifteen (15) calendar days prior to the time and date that such protest or appeal is to be heard. The Agency shall have the right, without objection by Cardinal, to appear at the time and date of such protest or appeal and to present oral or written information or evidence in support of or objection to the amount of assessment which should or should not be assessed against the real or personal property of the Site and the amount of the Agency's Project Area indebtedness or outstanding obligations.

6. Term. This Agreement shall remain in effect until December 1, 2016.

7. Confidentiality. Pursuant to Section 63-2-304, Utah Code Annotated, Cardinal hereby claims business confidentiality protection for documents and materials provided to the Agency pursuant to this Agreement. This claim of business confidentiality is based upon the following reasons:

- A. Disclosure of the planning or financial records of Cardinal will place Cardinal at a competitive disadvantage with competing facilities.
- B. Disclosure of the planning or financial records of Cardinal will substantially harm Cardinal in the negotiation of third party leases and contracts for other facilities.
- C. Disclosure of the planning or financial records of Cardinal may reveal trade secrets of Cardinal.

Based on the foregoing claim and representations of Cardinal, and for the reasons set forth above, the Agency agrees to classify the financial information it receives pursuant to this Agreement as protected records pursuant to Section 63-2-308, Utah Code Annotated. To the fullest extent it is able to do so consistent with applicable requirements of law, the Agency shall endeavor to ensure the confidentiality of all financial records it receives from Cardinal pursuant to this Agreement; provided, however, that the Agency may, upon 15 days' prior written notice to Cardinal, disclose such materials pursuant to the order of a court of competent jurisdiction.

8. Conflict of Interest – Agency. No official, employee, consultant, or agent of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

9. Notices. A notice or communication under this Agreement, by either Party to the other, shall be sufficiently given or delivered, if given in writing by personal service, express mail, FedEx, DHL or any other similar form of courier or delivery service, or mailing in the

United States mail, postage prepaid, certified, return receipt requested and addressed to such Party as follows:

- A. In the case of a notice or communication to the Agency, Executive Director, Redevelopment Agency of West Valley City, 3600 Constitution Boulevard, West Valley City, Utah 84119-3027, with a copy to West Valley City Attorney, Attorney for the Redevelopment Agency of West Valley City, 3600 Constitution Boulevard, West Valley City, Utah 84119-3027.
- B. In the case of a notice or communication to Cardinal:

- C. Notice to any Party may be addressed in such other way that Party may, from time to time, designate in writing dispatched as provided in this Section.

10. Headings. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions. "Paragraph" and "section" may be used interchangeably.

11. Successors and Assigns of Cardinal. This Agreement may be assigned by Cardinal and, provided that the assignee shall comply with its terms and shall maintain a substantially similar type of business, shall be binding upon and inure to the benefit of the Cardinal and its successors and assigns. Where the term "Cardinal" is used in this Agreement, it shall mean and include the Cardinal's successors and assigns.

12. Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State of Utah.

13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

14. Complete Agreement. This Agreement and its Attachments contain the complete agreement of the parties, and supersede all prior and contemporaneous negotiations, representations and agreements of the parties with respect to the subject matter hereof. This Agreement may be amended or modified only in writing, executed by both Parties.

EXHIBIT 1 TO CARDINAL HEALTH INCENTIVE AGREEMENT

Site Aerial Photograph

